Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 918 - 04233 - 0525 - 145 | Date: 04/06/18 | Time: 1129 Hours

Location: [redacted] Fairview Avenue | City or Station: Temple City

Bureau/Station/Facility: East Patrol Division/ Temple Station | Admin. Investigation: ○ YES ◉ NO

Type of Force: OC Spray/ Takedown /Control Holds/Resisted Handcuffing (fractured forearm & fractured rib)

Incident Category: ○ 1 ○ 2 ◉ 3 | Deputy Injury: ○ YES ◉ NO | Suspect Injury ◉ YES ○ NO

☒ Call ☐ Observation ☐ Detail ☐ Foot Pursuit ☐ Vehicle Pursuit

IAB Notified: ◉ YES ○ NO | Person Notified: Lt. M. Burse | Emp: [redacted] | IAB Roll Out ◉ YES ○ NO

Involved Employee

E1

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	Leyba	Robert	R.	DSG

Sex: ◉ M ○ F | Race: H | Height: 6-01 | Weight: 210 | Age: [redacted] | Shift: ○ EM ◉ Day ○ PM | ◉ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: Temple Station | Work Assignment (Unit #, Module, etc.): 51

Individual Force Used: OC Spray, Takedown | ○ Directed ○ Rescue ○ Medical Assist | Individual Category ○ 1 ○ 2 ◉ 3

☐ Injured ☐ Treated ☐ Admitted Facility: | Coroner Case #

E2

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	[redacted]	[redacted]	[redacted]	DSG

Sex: ○ M ◉ F | Race: W | Height: 5-07 | Weight: 150 | Age: [redacted] | Shift: ○ EM ◉ Day ○ PM | ◉ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: Temple Station | Work Assignment (Unit #, Module, etc.): 52

Individual Force Used: Control Holds, Resisted Handcuffing | ○ Directed ○ Rescue ○ Medical Assist | Individual Category ◉ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: | Coroner Case #

E3

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	[redacted]	[redacted]	[redacted]	DSG

Sex: ◉ M ○ F | Race: A | Height: 5-10 | Weight: 190 | Age: [redacted] | Shift: ○ EM ◉ Day ○ PM | ◉ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: Temple Station | Work Assignment (Unit #, Module, etc.): 57A

Individual Force Used: Control Holds, Resisted Handcuffing | ○ Directed ○ Rescue ○ Medical Assist | Individual Category ◉ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: | Coroner Case #

On Duty Supervisor ☐ Additional Involved Employees

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Serpa	Jeffrey	A.	Sgt.	YES ○ NO ◉	YES ○ NO ◉

Supervisor Completing Investigation

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Ruiz	Andy	--	Sgt.	YES ○ NO ◉	YES ○ NO ◉

Watch Commander / Supervising Lieutenant

Emp #	Last Name	First Name	Middle I.	Rank
[redacted]	Granek	Roberta	C.	Lt.

[signature] 3-8-19

Watch Commander / Supervising Lieutenant's **Signature:** | Date | Copy Provided to Employee by: | Emp #:

Unit Commander **(Print Name)** | Unit Commander's **Signature:** | Emp #: | Date

DISCOVERY Use Only
FO#

☐ PPI REVIEW COMPLETED

Original: Discovery Unit
Copy: Unit Commander

Supervisor's Report on Use of Force
SUSPECT INFORMATION

918 - 04233 - 0525 - 145

Suspect Information

S 1

Last Name: Montesinos | First Name: Josue | Middle Name: Angel | Armed? Select: Not Armed

AKA Last Name: Moniker | First Name: Swifty | Middle Name:

Sex: (●) Male ( ) Female | Race: H | Age: 28 | Height: 5-06 | Weight: 175 | D.O.B: 07/08/89 | Phone #1: ( ) H ( ) W ( ) C None | Phone #2: ( ) H ( ) W ( ) C None

Street Address: [redacted] | City: [redacted] | State & Zip Code: [redacted]

Booking #: 5277-291 | Primary Charge Code: 415(1) PC | Secondary Charge Code: | [X] Criminal History

Treated on Scene? (●) YES ( ) NO | Name: Care Ambulance | Unit: 482 | Phone #: (714) 288-3800

Hospital Admission? [ ] | Rec'd Treatment At: San Gabriel Valley Med | Coroner Case #: | Mental History [ ] User's guide provides direction on this entry

By: Andy Hsu, MD | Address: 438 W. La Tunas Drive, San Gabriel, CA | Phone #: (626) 289-5454

Under Influence: ( ) YES (●) NO | Substance: | 5150 a factor in force? ( ) YES (●) NO User's guide provides direction on this entry

Date: 04/06/18 | Time: 1500 | [ ] Audiotape: | [X] Videotape: | [ ] Photos of Injuries: | [ ] ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S _

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | [ ] Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? [ ] | Rec'd Treatment At: | Coroner Case #: | Mental History [ ] User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Date: | Time: | [ ] Audiotape: | [ ] Videotape: | [ ] Photos of Injuries: | [ ] ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S _

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | [ ] Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? [ ] | Rec'd Treatment At: | Coroner Case #: | Mental History [ ] User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Date: | Time: | [ ] Audiotape: | [ ] Videotape: | [ ] Photos of Injuries: | [ ] ADMITS HEARING ANNOUNCEMENTS

[ ] **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION

918 - 04233 - 0525 - 145

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Shue	Henry	F.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	52T1	○ EM ◉ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	57A	○ EM ◉ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Serpa	Jeffrey	A.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	50S	○ EM ◉ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		48	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	---

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		45	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	---

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

☐ Additional Witness

Supervisor's Report on Use of Force

9 1 8 - 0 4 2 3 3 - 0 5 2 5 - 1 4 5

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(RO) Restraint Device (Other)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(IR) Less Lethal Impact Round (other)
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative
(HR) High Risk

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Involved

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Montesinos	S #1	Leyba	E #1	UC	NN	N/A
Leyba	E #1	Montesinos	S #1	OC	CP	FA
Leyba	E #1	Montesinos	S #1	TD	FR	AR
Leyba	E #1	Montesinos	S #1	TD	FR	CH
Montesinos	S #1	[redacted]	E #2	RS	NN	N/A
[redacted]	E #2	Montesinos	S #1	CT	NN	AR
[redacted]	E #2	Montesinos	S #1	RH	NN	WR
[redacted]	E #3	Montesinos	S #1	CT	NN	AR
[redacted]	E #3	Montesinos	S #1	RH	NN	WR

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT:	**Use of Force, Fracture of Distal Ulnar Shaft and Displaced 9th Rib Fracture**
IAB FILE NUMBERS:	**FO 2452586**
URN#:	**918-04233-0525-145**
DATE/TIME:	**April 6, 2018, July 3, 2010, 1129 hours**
LOCATION:	[redacted] **Fairview Avenue, Temple City**

SYNOPSIS

On Friday, April 6, 2018, an Internal Affairs Bureau (IAB) team comprised of Lieutenant Michael Burse, Sergeants Paul Valle, and Andy Ruiz responded to Temple Station, regarding a Category 3 Use of Force (fracture of distal ulnar shaft and displaced 9th rib fracture).

During a medical clearance at San Gabriel Valley Medical Center of Suspect Josue Montesinos for exposure to oleoresin capsicum (OC) spray and a takedown, Department personnel were advised by medical staff that Suspect Montesinos had a fracture to his right forearm. Suspect Montesinos refused treatment and was released from the hospital.

While incarcerated within the Los Angeles County Sheriff's Department jail system, Suspect Montesinos was treated on April 9, 2018, for the fractured ulna to the right forearm. At that time, a fractured, left, 9th rib was discovered.

Incident

On Monday, April 6, 2108, at 1118 hours, a female, by the name of [redacted] called Temple Station to report a male Hispanic transient with blood on his feet sitting in front of her a neighbor's residence at [redacted] Fairview Avenue in Temple City. A call for service of a suspicious person possibly trespassing was generated under incident #TEM18096-0105 **[Refer Incident History Report for Tag #105, dated April 6, 2018 in Miscellaneous Documents]**.

> **IAB Note:** **The audio containing the female's call to Temple Station is attached [Exhibit A, DVD #1, Tag 105_**[redacted]**.**

The call was dispatched through the Sheriff's Communication Center (SCC) by voice **[Exhibit A, DVD #1, Dispatch 11]**. Deputy [redacted] (Unit 52) was initially given the handle on the call. Deputy Henry Shue #[redacted] (Unit 52T1) was assigned to assist. Deputies [redacted] #[redacted] and [redacted] (Unit 57A), along with Detective Robert Leyba #[redacted] (Unit 51), also responded. Deputy [redacted] coordinated the call over the Sheriff's Department, L-Tac, radio frequency **[Exhibit A, DVD#1, L-Tac]**.

> **IAB Note: "927C" is a radio code for "Check Vicinity."**

> **IAB Note: L-TAC stands for Local Tactical Channels and is a separate channel from the station dispatch channel. It is used for tactical coordination within a station area.**

Detective Leyba and Deputy Shue arrived on scene first, at 1129 hours, and parked along the south curb of [redacted] Fairview Avenue, west of the property. They contacted Suspect Montesinos, who matched the description in the call, in the driveway of the location. He was barefoot with blood and sores on his feet. His shoes and socks were off to the side. Suspect Montesinos was seated on a brick planter, by [redacted] along the west wall of the single-story residential structure situated at the front of the property.

Detective Leyba and Deputy Shue inquired what Suspect Montesinos was doing at the location, checked on his welfare, and asked for his name along with identifying information. Suspect Montesinos claimed he was waiting at the location for [redacted], declined medical assistance, and ignored questions related to his identity. Detective Leyba and Deputy Shue knocked on the doors and windows of the residence where Suspect Montesinos was sitting. No one answered. While Detective Leyba continued to check for occupants, Suspect Montesinos put on his shoes, stood up, and attempted to walk to the rear of the property. Deputy Shue blocked Suspect Montesinos' path. Detective Leyba walked toward Suspect Montesinsos. Detective Leyba and Deputy Shue believed there was no apparent reason for Suspect Montesinos to be at the location based on their knowledge, from previous calls, of the persons who resided at the location. Both Detective Leyba and Deputy Shue directed Suspect Montesinos toward the street in an effort to get him to leave.

Suspect Montesinos stopped but did not comply with the requests to leave. Detective Leyba then asked Suspect Montesinos for his name. Suspect Montesinos focused his attention at Detective Leyba, raised his hands with clenched fists, in a boxer's stance, and advanced toward Detective Leyba. Fearing an assault, Detective Leyba deployed his OC spray. He sprayed Suspect Montesinos in the face. Suspect Montesinos covered his face with both hands and bladed his body away from Detective Leyba. Detective Leyba immediately rushed Suspect Montesinos from behind in a tackle motion.

Detective Leyba wrapped his arms around Suspect Montesinos' raised arms and upper body. With Suspect Montesinos' arms pinned to his chest, Detective Leyba took Suspect Montesinos to the ground.

Detective Leyba held Suspect Montesinos on the ground. At 1130 hours, Deputy Shue requested the duplex patch and broadcast over the Sheriff's Department, Dispatch 11, radio frequency a request for assistance. During the broadcast, Deputy Shue indicated assisting deputies arrived on scene. The broadcast took approximately 20 seconds **[Exhibit A, DVD, Dispatch 11]**.

> **IAB Note:** **Normal Dispatch 11 radio frequency communication is only heard by SCC. The "duplex patch" is a process where all radio communications are patched together. This allows deputies to hear and communicate with each other.**

Assisting Deputies [redacted] and [redacted] ran to the driveway where Detective Leyba was holding Suspect Montesinos on the ground. Deputies [redacted] and [redacted] assisted in placing Suspect Montesinos' hands behind his back and applying handcuffs (resisted handcuffing). Deputy [redacted] broadcast over Dispatch 11 a "Code 4" and requested a fire department medical response for Suspect Montesinos. The broadcast was approximately 20 seconds after Deputy Shue requested assistance **[Exhibit A, DVD, Dispatch 11]**.

> **IAB Note:** **"Code-4" is a radio code used to indicate "no further assistance needed."**

While in the back seat of a patrol car, Suspect Montesinos provided his name and date of birth. A check of the countywide warrant system revealed he had an outstanding probation violation warrant (#REV8PR0060201). Suspect Montesinos was arrested for the warrant and additionally charged with challenging a person to fight in a public place in violation of 415(1) PC.

At the time of arrest, Suspect Montesinos complained to Deputy [redacted] his face hurt. He was transported to San Gabriel Medical Center by ambulance.

Detective Leyba, Deputy [redacted], and Deputy Shue reported the force they used or witnessed to the field sergeant (Unit 50S), Sergeant Jeffrey Serpa #[redacted]. Deputy [redacted] stated he did not use or witness force.

All reports involving this incident, including actions and observations by each involved employee, are submitted **[Exhibit B]**.

INVOLVED EMPLOYEES AND WORK HISTORY

Leyba, Robert, Detective, #[redacted]
East Patrol Division
Temple Station

Work History

Date of Employment:	April 10, 1996
Date Assigned to Patrol/Temple Station:	August 19, 2001
Date Completed Patrol Training:	[redacted]
Prior Shooting incident(s):	Three
Prior Founded Force Incidents:	[redacted]

Equipment Worn On Person

On April 6, 2018, Detective Leyba was wearing his Class "A" uniform with a Sam Browne duty belt. The equipment worn on his duty belt included his Smith & Wesson, M&P, 9mm, pistol, three (3) loaded M&P magazines, two (2) sets of handcuffs, oleoresin capsicum (OC/Pepper) spray, expandable straight baton, a handheld radio, a tourniquet kit, and key holder.

INVOLVED EMPLOYEE AND WORK HISTORY

[redacted], Deputy Sheriff, #[redacted]
East Patrol Division
Temple Station

Work History

Date of Employment:	[redacted]
Date Assigned to Patrol/Temple Station:	
Date Completed Patrol Training:	
Prior Shooting incident(s):	
Prior Founded Force Incidents:	

Equipment Worn On Person

On April 6, 2018, Deputy [redacted] was wearing her Class "A" uniform with a Sam Browne duty belt. The equipment worn on her duty belt included her Berretta, 92FS, 9mm, pistol, two (2) loaded magazines, two (2) sets of handcuffs, oleoresin capsicum (OC/Pepper) spray, expandable straight baton, and a handheld radio.

INVOLVED EMPLOYEE AND WORK HISTORY

[redacted], Deputy Sheriff, #[redacted]
East Patrol Division
Temple Station

Work History

Date of Employment: [redacted]
Date Assigned to Patrol/Temple Station:
Date Completed Patrol Training:
Prior Shooting incident(s):
Prior Founded Force Incidents:

Equipment Worn On Person

On April 6, 2018, Deputy [redacted] was wearing his Class "A" uniform with a Sam Browne duty belt. The equipment worn on his duty belt included his Smith & Wesson, M&P, 9mm, pistol, two (2) loaded M&P magazines, two (2) sets of handcuffs, oleoresin capsicum (OC/Pepper) spray, expandable straight baton, a handheld radio, and keys. He also was carrying a Taser.

SUSPECT INFORMATION

Josue Angel Montesinos
Male, Hispanic, DOB: July 8, 1989, 5'06", 175 pounds
[redacted]
CII #[redacted], MAIN #[redacted], FBI #[redacted]

Suspect Montesinos' criminal history prior to this use of force revealed he had [redacted] for the following: [redacted] He also had [redacted] for the following: [redacted]

Suspect Montesinos was on [redacted].

> **IAB Note: A copy of Suspect Montesinos' booking information along with his criminal history is included in [Exhibit C].**

SUSPECT'S INJURIES

Suspect Montesinos sustained a fracture in his right forearm ulna bone. Days later, it was also determined he had a fractured, left 9th rib fracture.

On January 16, 2018, IAB investigators contacted Doctor Andy Hsu (treating physician on April 6, 2018) in the emergency room of the San Gabriel Valley Medical Center. Doctor Hsu explained Suspect Montesinos was diagnosed with a fractured ulna in the right forearm. Suspect Montesinos was not cooperative and declined further treatment. Suspect Montesinos did not complain of pain or injury to his chest and was not examined for rib fractures.

Doctor Hsu stated he could not determine if the fractured forearm was a pre-existing injury. Doctor Hsu stated the forearm injury could have possibly been caused by a fall to the ground. However, Doctor Hsu could not positively attribute the injury to the deputies' actions.

Suspect Montesinos declined to provide a statement to a field supervisor other than OC spray was applied to his face by deputy personnel and his face was "burning." Suspect Montesinos also declined to provide a statement to IAB investigators.

IAB investigators consulted with Correctional Health Services, Chief Physician Nickolay Teophilov, for an opinion on Suspect Montesinos' fractures. Doctor Teophilov reviewed the X-rays taken on April 9, 2018, of Suspect Montesinos' injuries. Doctor Teophilov described both the left 9th rib and right ulna fractures as "fresh." He said fractures that occur within 14 days are considered fresh.

He stated the fracture of the left 9th rib could be consistent with the impact of being tackled on the left side rib cage area. Doctor Teophilov explained a person in an altered mental state due to street drugs may not immediately feel the pain of this type of injury and have no complaint of pain until days later.

Doctor Teophilov did not rule out the possibility the fractured right ulna may have been as a result of the impact with the ground during the takedown. However, he explained the type of fracture to the right forearm was more consistent with an arm being extended out in a vertical manner while having a significant amount of opposing force from a horizontal direction come in contact with the ulna. He provided the example of someone bracing their fall, with arms extended out toward the ground, and simultaneously being struck in the forearm with a blunt object.

IAB Note: A copy of Suspect Montesinos' custody medical records are included [Exhibit D].

DEPUTY PERSONNEL INJURIES

None

PHYSICAL EVIDENCE

No physical evidence related to the use of force was collected. Digital photographs taken by Sergeant Serpa of the scene immediately following the use of force incident were provided to IAB investigators **[Exhibit A, DVD, TEM Video & Photos folder, IMG_0448, IMG_0449, and IMG_0450**].

A digital video depicting an attempt by Temple Station Sergeant Richard Lewis #[redacted] to obtain an interview statement from of Suspect Montesinos was also submitted to IAB investigators along with three digital photographs of Suspect Montesinos at San Gabriel Medical Center **[Exhibit A, DVD, TEM Video & Photos folder, MVI_0455, IMG_0451, IMG_0452, and IMG-0453]**.

INVESTIGATOR'S OBSERVATIONS

Eight hours transpired from the use of force incident to IAB Investigator's observations at the location of occurrence.

The property where the incident occurred is at the [redacted]. The property consists of a single story structure at the front of the property, [redacted] to the rear. The rear structure consists of [redacted]. A driveway that leads from the street to the rear apartments is situated along with west side of the property. The driveway is an uneven coarse asphalt surface.

No surveillance cameras were observed on the property, or surrounding properties, where the incident occurred.

WEAPONS USED BY DEPUTY PERSONNEL

None.

WEAPONS USED BY SUSPECT MONTESINOS

Suspect Montesinos presented personal weapons (raised clenched fists) toward Detective Leyba.

PROPERTY DAMAGE

None.

CRIMINAL INVESTIGATION AND CHARGES FILED

Investigator: Temple Station Detective Bureau, Detective Leyba

Court: El Monte Court

Charges: Probation Violation in lieu of Criminal Complaint

> **IAB Note: IAB investigators contacted Deputy District Attorney (DDA) Raine Ritchey. She stated a probation violation for conduct was sought against Suspect Montesinos. He was sentenced to 180 days under probation violation #8PR00602 under court case #7EM05718 on June 18, 2018. He was released from custody on June 19, 2018.**

LIGHTING AND WEATHER CONDITIONS

The scene was illuminated by natural sunlight. The weather was clear and warm.

INTERVIEW STATEMENTS

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the digitally audio recorded interviews and verbatim transcriptions.

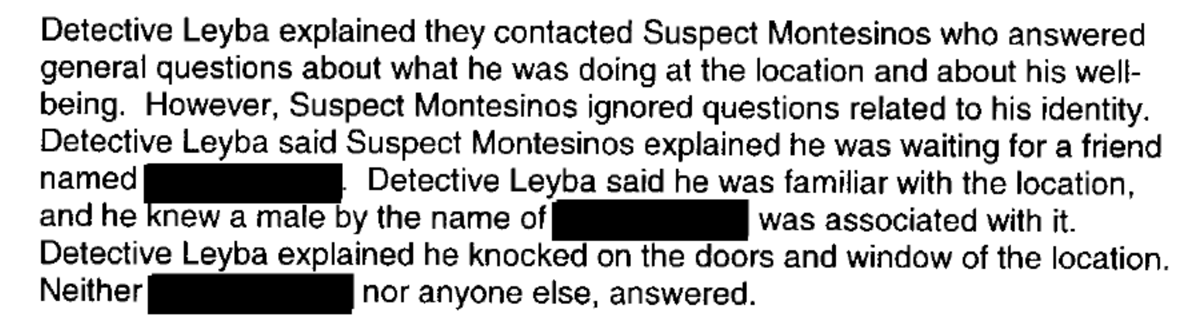
INVOLVED EMPLOYEE DETECTIVE ROBERT LEYBA

On February 12, 2019, Detective Robert Leyba was interviewed by IAB investigators at Internal Affairs Bureau. Detective Leyba was represented by attorney Amy Johnson during the interview. Detective Leyba told IAB investigators he was working a Temple Station uniformed patrol assignment on Day Shift, April 6, 2018. He was assigned to a single deputy patrol car as Unit 51. He explained he responded to a call for service of a suspicious person at [redacted] Fairview Avenue, Temple City, along with Deputy Shue.

> **IAB Note: Deputy Shue was working as Unit 52T1 [Refer to Temple Station in-service dated April 6, 2018 in Miscellaneous Documents].**

Detective Leyba said he arrived at the location along with Deputy Shue at the same time. He observed a male (Suspect Montesinos) that matched the description provided in the call **[Exhibit A, Tag 105].** He saw Suspect Montesinos was seated on a brick planter at the front of the property.

IAB Note: Detective Leyba was presented with a satellite map image of [redacted] Fairview Avenue. He marked with a box, containing 'X', in red ink where Suspect Montesinos was sitting. He also marked with a rectangle, containing an 'L', in red ink where he parked, and a rectangle, containing an 'S', in red ink where Deputy Shue parked [Refer to image attached at the end of Detective Leyba's transcript].



Detective Leyba explained they contacted Suspect Montesinos who answered general questions about what he was doing at the location and about his well-being. However, Suspect Montesinos ignored questions related to his identity. Detective Leyba said Suspect Montesinos explained he was waiting for a friend named [redacted]. Detective Leyba said he was familiar with the location, and he knew a male by the name of [redacted] was associated with it. Detective Leyba explained he knocked on the doors and window of the location. Neither [redacted] nor anyone else, answered.

Suspect Montesinos was not detained. There was no pat-down or physical contact with him, and Suspect Montesinos was free to walk out toward the street and leave. Detective Leyba said there appeared to be no purpose for Suspect Montesinsos to be at the location, and Suspect Montesinos was asked to leave. Detective Leyba said Suspect Montesinos showed no signs of being uncooperative other than avoiding questions concerning his identity.

Detective Leyba explained Suspect Montesinos put on his shoes and stood up. Detective Leyba said he and Deputy Shue stood to the south of Suspect Montesinos to form a barrier from the rest of the property so Suspect Montesinos would walk north toward the street. Suspect Montesinos took a few steps toward the street then changed directions and walked directly over to Deputy Shue. Detective Leyba said Deputy Shue stood in front of Suspect Montesinos. Detective Leyba and Deputy Shue simultaneously said, "That way" directing Suspect Montesinos toward the street. Detective Leyba explained Suspect Montesinos then tried to walk around Deputy Shue. Detective Leyba walked behind Deputy Shue to face Suspect Montesinos and told him in an assertive tone, "You need to stop. Turn around and let's go." Suspect Montesinos then stared at Detective Leyba. Detective Leyba said it was at this point he realized Suspect Montesinos was becoming uncooperative and was trying to "hide something" because he did not want to leave.

Detective Leyba said he explained to Suspect Montesinos he needed to know his name. Detective Leyba was standing about three to four feet away from Suspect Montesinos. Suspect Montesinos moved toward Detective Leyba. Detective Leyba said he stepped back approximately three to five feet away from Suspect

Montesinos to create distance. Suspect Montesinos started saying, "What? What? What? What?" Suspect Montesinos brought up his clenched fists in a boxer's stance. Detective Leyba was concerned Suspect Montesinos was going to assault him and immediately applied pepper spray to Suspect Montesinos. Once sprayed, Suspect Montesinos put his hand on his face and started stumbling backwards. Suspect Montesinos turned almost all the way around to face north toward the street. Detective Leyba rushed Suspect Montesinos and grabbed him in a "bear hug" by wrapping his arms around Suspect Montesinos upper torso and raised arms tackling him straight to the ground. Detective Leyba explained Suspect Montesinos arms were locked tight to Suspect Montesinos body when he tackled him. Detective Leyba said he believed he tackled Suspect Montesinos on the back left side ribcage when he effected the takedown. Detective Leyba stated Suspect Montesinos was immediately taken down to the ground without pause after applying pepper spray to Suspect Montesinos.

IAB Note: Deputy Leyba indicated in his report that he applied a two second burst of OC (pepper) spray to the suspects' face [Refer to Exhibit A, page 3].

Detective Leyba said that upon hitting the ground, he could feel the "energy" drain from Suspect Montesinos, who "curled up" into a "small ball." Detective Leyba said the takedown was quick, and he was not sure what side of Suspect Montesinos' body hit the ground first. Detective Leyba maintained control of Suspect Montesinos by holding onto his upper body and wrapping his legs around Suspect Montesinos' legs until assisting units arrived on scene. Detective Leyba stated only Deputy Shue was present at the time he applied the pepper spray and initiated the takedown of Suspect Montesinos.

Detective Leyba said Deputy Shue did nothing during the time he applied pepper spray and effected the takedown. While on the ground with Suspect Montesinos, Detective Leyba communicated with Deputy Shue to broadcast an assistance request. Detective Leyba explained assisting Deputies [redacted] arrived seconds after the assistance request was broadcast. Detective Leyba said Deputy [redacted] placed Suspect Montesinos' left arm behind his back. He believed Deputy [redacted] handcuffed Suspect Montesinos' left hand and then handcuffed Suspect Montesinos' right hand. Detective Leyba said he believed he held onto Suspect Montesinos while Suspect Montesinos was being handcuffed. Detective Leyba stated he did not believe Suspect Montesinos resisted handcuffing. He did not know where Deputy [redacted] was at the time Suspect Montesinos was handcuffed.

Detective Leyba believed Suspect Montesinos' head was facing in a northwest direction while they were on the ground. Detective Leyba would have been behind Suspect Montesinos to the east with his, and the suspect's, right shoulder on the ground.

IAB Note: **Detective Leyba was presented with a satellite image of [redacted] Fairview Avenue. He marked with a box, containing 'X', in blue ink where he and Suspect Montesinos were on the ground. He also marked with an arrow in blue ink the direction Suspect Montesinos' head was facing [Refer to image attached at the end of Detective Leyba's transcript].**

Detective Leyba stated he did not witness any other Department member apply force to Suspect Montesinos. He reported his use of force to Sergeant Serpa. Detective Leyba explained he did not stay with Suspect Montesinos after the use of force and did not know if Suspect Montesinos complained of any pain.

INVOLVED EMPLOYEE DEPUTY [redacted]

On February 12, 2019, Deputy [redacted] was interviewed by IAB investigators at Internal Affairs Bureau. Deputy [redacted] told IAB investigators she worked Day Shift at Temple Station, as Unit 52, in a single deputy patrol car, on April 6, 2018. Deputy [redacted] explained she was assigned to handle a call for service (Tag 105) regarding a suspicious person at [redacted] Fairview Avenue. She coordinated the response with assisting units. Deputy [redacted] said she was driving to the call when she heard a broadcast for assistance at the location.

Deputy [redacted] arrived and got out of her patrol car. Deputy [redacted] said Deputy [redacted] and Deputy [redacted] arrived at the same time and parked behind her.

IAB Note: **Deputy [redacted] was presented with a satellite map image of [redacted] Fairview Avenue. She marked with a rectangle in red ink the approximate area where she parked [Refer to image attached at the end of Deputy [redacted]s transcript].**

Deputy [redacted] explained she saw Suspect Montesinos in a fetal positon, with Detective Leyba attempting to gain control of Suspect Montesinos' arms. Deputy [redacted] said Suspect Montesinos' arms were tucked underneath him between his stomach and the ground. Detective Leyba was on top of Suspect Montesinos trying to grab Suspect Montesinos' arms. Deputy [redacted] did not recall if Suspect Montesinos was facedown or on his side. Deputy [redacted] first saw Suspect Montesinos on the ground in the driveway of the location from the street.

IAB Note: Deputy [redacted] was presented with a satellite image of [redacted] Fairview Avenue. She marked with a circle in red ink were she was standing when she first observed Suspect Montesinos and marked a letter 'X' in the approximate area where Suspect Montesinos was on the ground [Refer to image attached at the end of Deputy [redacted] transcript].

Deputy [redacted] explained she grabbed Suspect Montesinos' left arm. She believed she used both her hands to get Suspect Montesinos' left arm out from underneath him. Deputy [redacted] then placed Suspect Montesinos' left arm behind his back. She said Deputy [redacted] helped her by placing Suspect Montesinos' right hand behind his back. Suspect Montesinos was handcuffed. Deputy [redacted] believed Deputy [redacted] was the deputy who actually placed the handcuffs on Suspect Montesinos. Deputy [redacted] said she had to use a little bit of effort to get Suspect Montesinos' arm behind his back. Deputy [redacted] stated Suspect Montesinos was not complying with bringing his arms out. She explained Suspect Montesinos resisted a little bit but was not trying to pull away.

Deputy [redacted] stated she did not witness the application of OC spray on Suspect Montesinos or the takedown. Deputy [redacted] did not recall where Deputy Shue was during the incident. She knew Deputy [redacted] was present, but she did not know exactly where he was when Suspect Montesinos was being handcuffed.

Deputy [redacted] said Suspect Montesinos complained his face "hurt" from the OC spray. He did not complain of any other pain or injury. Deputy [redacted] stated she reported her use of force to Sergeant Serpa.

INVOLVED EMPLOYEE DEPUTY [redacted]

On February 14, 2019, Deputy [redacted] was interviewed by IAB investigators at Internal Affairs Bureau. Deputy [redacted] was represented by attorney Mitchell Kander during the interview. Deputy [redacted] explained to IAB investigators he worked Day Shift as Unit 57A with Deputy [redacted] on April 6, 2018. Deputy [redacted] explained he was [redacted] at the time, and Deputy [redacted]. Deputy [redacted] was the passenger deputy.

Deputy [redacted] stated he responded to a call for service at [redacted] Fairview Avenue regarding a suspicious person **[Exhibit A, Tag 105]**. He did not remember if the call for service was voice dispatched. He did not recall if there was a coordinated response to the call. Deputy [redacted] said an assistance request was broadcast regarding the location. Deputy [redacted] said he and Deputy [redacted] were driving to the location when he heard the assistance broadcast. Deputy [redacted] could not estimate how far away they were or where they were at when the broadcast went

out. He stated, “nearby, but we’re not that close by.” Deputy [redacted] did know when Deputy [redacted] arrived at the location. He also did not know what actions she took at the location. Deputy [redacted] only stated Deputy [redacted] was present “nearby.”

Deputy [redacted] explained that upon arriving at the location, he heard yelling and ran to the driveway ahead of his partner (Deputy [redacted]). He saw Detective Leyba and Suspect Montesinos on the ground of the driveway. Deputy [redacted] said Suspect Montesinos was lying on his side. Detective Leyba was possibly holding Suspect Montesinos’ waist and mounted on top. Deputy [redacted] could not articulate any further details to describe, or elaborate on how Detective Leyba was holding the suspect down on the ground. Deputy [redacted] said Suspect Montesinos was in a fetal position on the ground yelling, but he did not recall what Suspect Montesinos was saying.

IAB Note: Deputy [redacted] was presented with two satellite images of [redacted] Fairview Avenue. On one image, he marked with a circle in red ink the approximate area where Detective Leyba and Suspect Montesinos were on the ground. On the other image, he marked with a rectangle in red ink the approximate area where he and Deputy [redacted] parked [Refer to images attached at the end of Deputy [redacted] transcript].

Deputy [redacted] stated he assisted in handcuffing. He recalled commands being given to Suspect Montesinos and Suspect Montesinos complying. Deputy [redacted] said he placed Suspect Montesinos’ arms behind Suspect Montesinos’ back and handcuffed him. Deputy [redacted] stated Suspect Montesinos’ submitted to handcuffing and did not resist. IAB investigators asked Deputy [redacted] if Deputy [redacted] assisted in handcuffing. Deputy [redacted] said Deputy [redacted] was there, but he did not recall what Deputy [redacted] was doing. Deputy [redacted] did not recall if anyone else assisted in handcuffing Suspect Montesinos or whose handcuffs were used. He explained he did not recall seeing Deputy Shue “nearby” since he was focused on Suspect Montesinos. Deputy [redacted] said Deputy [redacted] was next to him when he was handcuffing Suspect Montesinos.

Deputy [redacted] said Suspect Montesinos was never placed in the back of anyone’s patrol car. He explained he rode in an ambulance with Suspect Montesinos to hospital. Deputy [redacted] said he did not recall Suspect Montesinos complaining of any pain or complain of the effects of the pepper spray. Deputy [redacted] stated Suspect Montesinos was “quiet pretty much the whole time” in the ambulance.

Deputy [redacted] stated he did not witness or use any force.

EMPLOYEE WITNESS DEPUTY HENRY SHUE

On February 12, 2019, Deputy Henry Shue was interviewed by IAB investigators at Internal Affairs Bureau. Deputy Shue was represented by attorney Amy Johnson during the interview. Deputy Shue told IAB investigators he was working Temple Station on Day Shift, April 6, 2018. He was assigned to a single deputy patrol car as Unit 52T1. He explained he responded to a call for service of a suspicious person at [redacted] Fairview Avenue in Temple City, along with Detective Leyba.

Deputy Shue said he arrived at the location along with Detective Leyba. Upon walking up to the location he observed a male (Suspect Montesinos) seated on a brick planter in the driveway, along the west wall of the single story structure, at the front of the property.

> **IAB Note: Deputy Shue was presented with a satellite map image of [redacted] Fairview Avenue. He marked with a rectangle, containing an 'S', in red ink where he parked. He was also presented with digital photo (img_0449) of the location which he marked with a circle in red ink where Suspect Montesinos was sitting [Refer to images attached at the end of Deputy Shue's transcript].**

Deputy Shue explained he contacted Suspect Montesinos and asked his name. Suspect Montesinos responded, "I didn't call you." Deputy Shue said he also inquired if Suspect Montesinos needed medical attention for his feet. Suspect Montesinos told him he was fine. Deputy Shue said Suspect Montesinos was very short in his responses but understood what he was being asked. Suspect Montesinos explained he was waiting for [redacted] to finish taking a shower. Deputy Shue explained he has handled numerous calls on previous occasions at the location and had never dealt with anyone by the name of [redacted] or Suspect Montesinos. He also knew that a female by the name of [redacted] lived in the house at the front of the location where Suspect Montesinos was seated.

Deputy Shue explained Suspect Montesinos did not respond to questions about his identity. Suspect Montesinos then put on his shoes, got up and began walking southbound toward the back of the property. Deputy Shue said he placed himself in front of Suspect Montesinos. Suspect Montesinos tried to walk around him and then turned northbound toward Fairview Avenue. Deputy Shue said Suspect Montesinos walked toward Detective Leyba who was standing to the north of Deputy Shue.

> **IAB Note: There is no public access way to enter or exit the property from the south end.**

IAB investigators presented Deputy Shue a satellite image of [redacted] Fairview Avenue. Deputy Shue was asked to mark the letter 'X' in blue ink where Suspect Montesinos was sitting and a circle, containing the letter 'S', where he was standing. Deputy Shue was then asked to diagram with a blue arrow Suspect Montesinos path as he tried to walk southbound past him on the property. When asked to point out where Detective Leyba was standing when Suspect Montesinos tried to walk past him, Deputy Shue pointed to a location behind him to the south on the satellite image. IAB investigators asked Deputy Shue to clarify where exactly Detective Leyba was standing. Deputy Shue said he did not know exactly where Detective Leyba was standing because he wanted to make sure he had "eyes" on Suspect Montesinos. Deputy Shue only recalled that when he turned around to face north, he saw Detective Leyba in front of him. Deputy Shue marked the satellite image with a circle, containing the letter 'L', where he saw Detective Leyba standing **[Refer to satellite image attached at the end of Deputy Shue's transcript]**.

Deputy Shue explained Suspect Montesinos walked toward Detective Leyba. Detective Leyba asked Suspect Montesinos for identification. Suspect Montesinos responded by saying, "What? What? What?" Suspect Montesinos clenched his fist and walked toward Detective Leyba in a fighting stance. Deputy Shue said Detective Leyba then applied OC spray to Suspect Montesinos' face. Suspect Montesinos placed his hands up to his face and turned westbound away from Detective Leyba. Deputy Shue said he saw Detective Leyba "bear-hug" Suspect Montesinos from behind pushing him down to the ground. Deputy Shue stated he did not see how Suspect Montesinos fell onto the ground because he was downwind from the OC spray which contaminated him a little bit in the face.

Deputy Shue said he considered using the Taser on Suspect Montesinos when this occurred, but he decided not to do anything because he could not see due to the contamination of the OC spray. Deputy Shue stated he broadcast an assistance request one to two seconds after Detective Leyba took Suspect Montesinos down to the ground. Deputy Shue said Detective Leyba communicated with him to broadcast for assistance as he was trying to "get over" the OC spray contamination. Deputy Shue stated he had to clear his throat to put out the assistance request.

Deputy Shue said responding units arrived very quickly. Deputy [redacted] Deputy [redacted] and Deputy [redacted] arrived, and he excused himself because he started coughing. He stated he did not see Suspect Montesinos being handcuffed.

Deputy Shue explained that after Suspect Montesinos was handcuffed, Suspect Montesinos was placed in the back of his patrol car. He asked Suspect Montesinos for identifying information. Suspect Montesinos complied and a records check revealed Suspect Montesinos had an outstanding probation revocation warrant for his arrest. Deputy Shue stated Suspect Montesinos did not complain of any pain.

Deputy Shue said he reported the force he witnessed to Sergeant Serpa who responded to the location.

EMPLOYEE WITNESS DEPUTY [redacted]

On February 28, 2019, IAB investigators interviewed Deputy [redacted] at Temple Sheriff's Station. Deputy [redacted] stated to IAB investigators he worked Day Shift as Unit 57A with Deputy [redacted] on April 6, 2018. Deputy [redacted] explained he was a [redacted] and Deputy [redacted] was in his [redacted]. Deputy [redacted] drove, and Deputy [redacted] was the passenger deputy.

Deputy [redacted] said he and Deputy [redacted] were assigned to assist on a call for service at [redacted] Fairview Avenue. While driving to the location, Deputy [redacted] heard an emergent broadcast for assistance at the location. He said he was less than a block away, on Persimmon Avenue, approximately 10 seconds away when the broadcast went out. Deputy [redacted] observed Deputy [redacted] exiting a patrol car in front of him as he drove up. Deputy [redacted] said Deputy [redacted] exited the patrol car first. Deputy [redacted] ran southbound into the driveway and Deputy [redacted] followed. Deputy [redacted] exited the patrol car's driver's door and followed. He explained his direct path to the driveway was blocked by a few parked patrol cars. He was a few seconds behind Deputy [redacted].

Deputy [redacted] said he saw Suspect Montesinos laying on the ground, handcuffed, when he reached the driveway. Detective Leyba and Deputy [redacted] were kneeling next to Suspect Montesinos. He did not recall what Deputy [redacted] was doing, and he saw Deputy Shue standing approximately 15 feet away. Deputy [redacted] stated he did not witness any force applied to Suspect Montesinos.

Deputy [redacted] did not recall if Suspect Montesinos complained of any pain immediately following the incident or what Suspect Montesinos said.

EMPLOYEE WITNESS SERGEANT JEFFREY SERPA

On February 16, 2019, IAB investigators interviewed Sergeant Jeffrey Serpa at Temple Sheriff's Station. Sergeant Serpa stated to IAB investigators he worked Day Shift as the field sergeant, Unit 50S, on April 6, 2018. Sergeant Serpa explained he heard an emergent broadcast involving deputy personnel detaining an uncooperative suspect on Fairview Avenue in Temple City. Upon hearing the broadcast, he acknowledged the need for a supervisor to respond and immediately initiated a "Code-3" response.

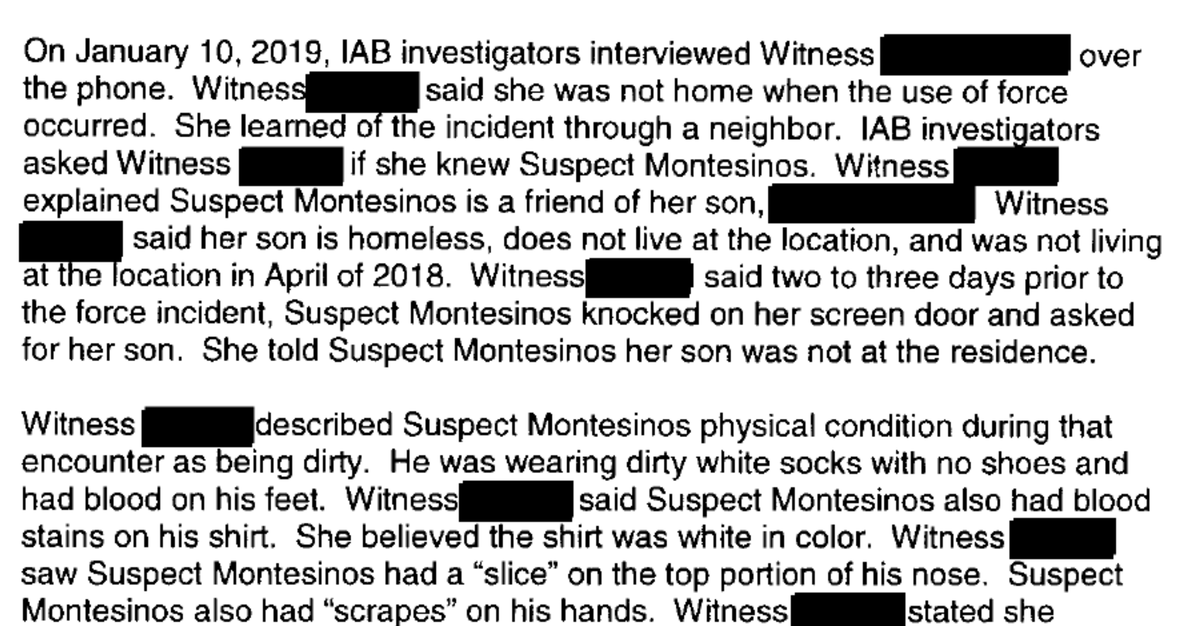
IAB Note: "Code-3" is a radio code used to indicate "emegency, use red lights and siren."

Upon arrival, Sergeant Serpa checked on the welfare of deputy personnel. He determined a use of force occurred based on information that was reported to him by the involved and witnessing personnel. He said OC spray and a takedown technique was applied to Suspect Montesinos. Sergeant Serpa said the force incident occurred in the driveway. He stated he did not direct or witness any force.

Sergeant Serpa did not recall Suspect Montesinos complaining of any injuries or pain at the scene. He later learned Suspect Montesinos had a fractured arm after Suspect Montesinos was medically evaluated at a hospital. Sergeant Serpa checked for witnesses to the force incident at the scene and none were located. Sergeant Serpa stated he took digital photographs of the scene on the date of the incident.

Sergeant Serpa said no other field supervisors were on duty or present.

WITNESS [redacted]



On January 10, 2019, IAB investigators interviewed Witness [redacted] over the phone. Witness [redacted] said she was not home when the use of force occurred. She learned of the incident through a neighbor. IAB investigators asked Witness [redacted] if she knew Suspect Montesinos. Witness [redacted] explained Suspect Montesinos is a friend of her son, [redacted] Witness [redacted] said her son is homeless, does not live at the location, and was not living at the location in April of 2018. Witness [redacted] said two to three days prior to the force incident, Suspect Montesinos knocked on her screen door and asked for her son. She told Suspect Montesinos her son was not at the residence.

Witness [redacted] described Suspect Montesinos physical condition during that encounter as being dirty. He was wearing dirty white socks with no shoes and had blood on his feet. Witness [redacted] said Suspect Montesinos also had blood stains on his shirt. She believed the shirt was white in color. Witness [redacted] saw Suspect Montesinos had a "slice" on the top portion of his nose. Suspect Montesinos also had "scrapes" on his hands. Witness [redacted] stated she believed both of Suspect Montesinos' hands had "scrapes." Witness [redacted] said Suspect Montesinos was, "talking to somebody that wasn't there" during the encounter and appeared to be "high."

IAB Note: **Suspect Montesinos booking photo and facial photos taking after the use of force incident did not show any apparent laceration on his nose with the exception of image IMG_0452 which shows a faint horizontal mark across the bridge of his nose [Refer to digital photos in Exhibit A].**

WITNESS [redacted]

On February 8, 2019, IAB investigators interviewed Witness [redacted] at her residence. Witness [redacted] stated she was home during the use of force incident that occurred on April 6, 2018. Witness [redacted] said she did not call the Sheriff's Department. Witness [redacted] explained she was inside her upstairs apartment when she heard someone yelling, "Leave me alone." She looked out her, west facing, living room window and saw two deputies talking to a "homeless" male (Subject Montesinos) who was standing. Witness [redacted] indicated the deputies were talking to Subject Montesinos in the west driveway, by the carport below her apartment. She could not hear what the deputies were saying.

> **IAB Note: IAB investigators observed the west facing living room window did not have a clear view of the front, north side, of the property.**

Witness [redacted] explained her view from the window was limited. The male and deputies then walked toward the front of the property out of her view. Witness [redacted] did not witness the deputies have any physical contact with Subject Montesinos. Witness [redacted] said her minor children were inside the apartment but did not observe the contact.

ADDITIONAL INFORMATION

On April 6, 2018, at 1845 hours, IAB investigators attempted to obtain a statement from Suspect Montesinos in the Temple Station Jail. The contact was video recorded **[Exhibit A, DVD, IAB Video & Photos folder, 00226]**. Suspect Montesinos declined to be interviewed, stating he just wanted to go to court.

Suspect Montesinos consented to IAB investigators taking five (5) digital photos depicting his hands, feet, and head **[Exhibit A, DVD, IAB Video & Photos folder, S1210001, S1210002, S1210003 S1210004, and S1210005]**.

Investigators were unable to identify the female caller who made the initial report to Temple Station. A phone number of [redacted] was provided at the time of the call **[Exhibit A, DVD, Tag 105_Viginia]**. IAB investigators called the phone number. A female who declined to identify herself claimed she was not [redacted], did not call the Sheriff's Department, did not know who [redacted] was, and did not know who called.

> **IAB Note: Witness [redacted] has a similar phone number of [redacted].**